

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael Talisayan	Team: Squad #11	CCRB Case #: 202000077	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 12/12/2019 6:00 PM	Location of Incident: 52nd Precinct stationhouse	Precinct: 52	18 Mo. SOL 6/12/2021	EO SOL 1/27/2022	
Date/Time CV Reported Mon, 12/23/2019 2:30 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 12/23/2019 2:30 PM		
Complainant/Victim	Type	Home Address			
Witness(es)	Home Address				
Subject Officer(s)	Shield	TaxID	Command		
1. LT Kevin Phelan	00000	919558	052 PCT		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. POM Manuel Estrada	27546	941277	052 PCT		
Officer(s)	Allegation			Investigator Recommendation	
A.LT Kevin Phelan	Abuse: Lieutenant Kevin Phelan did not process § 87(2)(b) complaint regarding police officers.				

Case Summary

On December 23, 2019, § 87(2)(b) filed this complaint during her in-person interview for CCRB case # § 87(2)(b).

On December 12, 2019, at approximately 6:00 p.m., § 87(2)(b) and her father, § 87(2)(b) visited the 52nd Precinct stationhouse. § 87(2)(b) spoke to PO Manuel Estrada of the 52nd Precinct and informed him that she wanted to file a complaint against PO Victor Wilson and PO Rhona Hall, also of the 52nd Precinct. PO Estrada described the incident to Lt. Kevin Phelan of the 52nd Precinct. Lt. Phelan refused to process § 87(2)(b) complaint (**Allegation A: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(g)

§ 87(2)(b) was not issued a summons nor was she arrested during the incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Lieutenant Kevin Phelan did not process § 87(2)(b) complaint regarding police officers.

§ 87(2)(b) and § 87(2)(b) entered the 52nd Precinct stationhouse. After waiting two hours, § 87(2)(b) met PO Estrada and Lt. Phelan who were seated behind computers. § 87(2)(b) whose father stood beside her, described her earlier encounter with PO Victor Wilson and PO Rhona Hall on December 2, 2019. PO Estrada relayed the information to Lt. Phelan. Lt. Phelan asked § 87(2)(b) “What you want? [sic] Your door is already fixed.” § 87(2)(b) described the incident again and stated that she wanted to file a report. Lt. Phelan told § 87(2)(b) that she did not have a right to file a report because her door was already repaired. During the conversation, § 87(2)(b) said she had filed a complaint with the CCRB. She played the voicemail left from a CCRB investigator. Lt. Phelan told § 87(2)(b) to let the CCRB handle it and to not come here for that. § 87(2)(b) and her father left the stationhouse [Board Review 01].

On February 20, 2020, in Inv. Jessica Russo’s telephone call to § 87(2)(b) who speaks Spanish, he stated that he believed § 87(2)(b) was upset with the officers in the stationhouse. He did not understand their conversation [Board Review 02].

PO Estrada testified he was behind a divider, located near the entrance of the stationhouse, when he observed § 87(2)(b). He did not recall anyone else with her. She walked up to the divider and told PO Estrada she wanted to file a complaint against an officer. PO Estrada did not recall any information about her complaint. PO Estrada turned to his supervisor, Lt. Phelan, who was sitting beside him. PO Estrada told Lt. Phelan that § 87(2)(b) wanted to file a complaint against an officer. Lt. Phelan and § 87(2)(b) spoke near the divider for about two or three minutes. PO Estrada did not recall their conversation. Lt. Phelan told § 87(2)(b) to call the CCRB’s telephone number to file a complaint. PO Estrada did not know if Lt. Phelan told her to call 311 or IAB or any other method to file a complaint. PO Estrada did not recall Lt. Phelan filing any paperwork for § 87(2)(b) complaint. He was unaware of Lt. Phelan offering to file the complaint for § 87(2)(b) in person. He was unaware of Lt. Phelan refusing to file § 87(2)(b) complaint against officers she encountered on December 2, 2019 [Board Review 03].

Lt. Phelan did not recall any interaction with § 87(2)(b). He was presented with a photograph of § 87(2)(b) he did not recognize her and was unable to answer whether he ever refused to process her complaint. Lt. Phelan did not recall PO Estrada having any interaction with her. Lt. Phelan did not recall any other officers working within the proximity of the desk other than PO Estrada [Board Review 04].

The investigation obtained stationhouse footage, dated December 12, 2019, for the lobby area of the 52nd Precinct stationhouse. It is unclear whether any of the civilians in the footage are § 87(2)(b) or § 87(2)(b). The officers behind the desk are not visible at any point. [Board Review 05].

The Command Log for the 52nd Precinct for December 12, 2019 does not have any entries

pertaining to any visit by § 87(2)(b) [Board Review 06].

NYPD Patrol Guide Procedure 207-31 provides guidelines on processing civilian complaints received by uniformed members of the service. For civilians who wish to file a complaint in person, officers must interview the complainant, provide him or her with a civilian complaint report, and assist or allow another person to assist the complainant with completing the report. Officers must also prepare a civilian complaint report and inform the Civilian Complaint Review Board [Board Review 11].

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the third complaint to which § 87(2)(b) has been a party [Board Review 07].
§ 87(2)(b)
§ 87(2)(b)
- Lt. Phelan has been a member of service for twenty-three years. Sixteen complaints, and forty-two allegations, have been filed against him. None of these allegations were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined mediation.
- On September 9, 2020, the Office of the New York City Comptroller indicated that there was no Notice of Claim related to this incident [Board Review 08].
- § 87(2)(b), § 87(2)(c)

Squad No.: 11

Investigator:	<u>Mike Talisayan</u>	<u>Inv. Mike Talisayan</u>	<u>02/22/21</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Edwin Pena</u>	<u>IM Edwin Pena</u>	<u>02/23/21</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date